



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Francis E. Heydt Company

File: B-224377.2

Date: September 25, 1986

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### DIGEST

Protest by the fourth low bidder against award to third low bidder is dismissed as premature because although agency has rejected the low bid it has not yet determined whether to accept second low bid.

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### DECISION

Francis E. Heydt Company protests the award of a contract for coveralls to Lite Industries under invitation for bids (IFB) No. DLA100-86-B-0276, a total small business set-aside issued by the Defense Personnel Support Center.

We dismiss the protest.

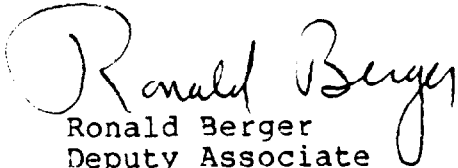
Seven bids were submitted in response to the IFB. The low bidder, Dallas Uniform, was rejected as nonresponsive, leaving the second low bidder, Case Inc., in line for award. Lite Industries, which submitted a basic bid and two TWX messages reducing its price, was determined to be the third low bidder; Heydt was fourth low.

Heydt filed its objection to an award to Lite after it learned that the contracting officer determined Case to be nonresponsive. Heydt assumes that Case's bid was rejected based on this determination and that Lite is now in line for award. We have been informed by the agency, however, that the matter of Case's responsibility has been referred to the Small Business Administration (SBA) for consideration under its certificate of competency procedures. See 15 U.S.C. § 637(b)(7) (1982). The SBA, which has the exclusive authority to determine a small business's responsibility, has not yet decided the matter. The agency reports that if SBA issues Case a COC it will likely make award to that firm.

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Since Case is still in line for award, Heydt's protest of award to the next lower bidder, Lite, is at this point premature. No useful purpose would be served by our consideration of the protest because even if Lite's bid were determined to be nonresponsive, Heydt would not be in line for award. See Mil-Craft Mfg., Inc., B-214015, May 7, 1984, 84-1 CPD ¶ 512.

The protest is dismissed.

  
Ronald Berger  
Deputy Associate  
General Counsel